

COMMENTS

Applicant has carefully considered the Examiner's comments in the instant proposed Restriction Action. Applicant respectfully traverses and provisionally elects Group I (claims 1-11).

Applicant respectfully traverses the asserted differing groupings (and the assertion of differing independent inventions) between Group I (Claims 1-11) Group II (Claims 12-20), Group V (claim 27), and Groups VII and VIII (claims 29-35), and requests reconsideration and withdrawal and subsequent restructuring of the proposed restriction action. Said groups are clearly interrelated and jointly searchable.

While the inventions in Groups I, II, V, and VII-VIII DO require a number of "means" they are they DO NOT require a "computer control means" as noted in claim 21 and as such the reasoning asserted in para. 2, page 3 of the action to divide the groups (Group I, II, V, and VII-VIII) is unsound, and the restriction must be withdrawn. No other "reasons" for the restriction are provided and thus, there is a paucity of reasoning supporting the restriction on it's face. As will be demonstrated below, core claim details are consistent throughout the independent claims in each group and no undue searching is required. The mere fact that some related but divergent searching would assist the Examiner's review is an insufficient basis to raise the Restriction.

The Examiner's assertions as to prospective uses of how a computer control means may be employed are speculative and procedurally cannot form the foundation for a restriction requirement between the strictly mechanical linked groups. As a consequence, the "reasons" asserted in para. 3 (referring to para 2 of the action), are improperly drawn to speculative support as they have no bearing on distinguishing Groups I, II, V, and VII-VIII and the restriction should be withdrawn.

Independent claim 1, claim 12 (a combo of claim 1 and 2), claim 27, Claim 29, and claim 33 are linked by common claimed features easily group searched. These common claimed features include:

- (a) a body unit having an axis (first axis)
- (b) a speaker unit having a speaker face
- (c) the speaker face being coaxial to the body unit.
- (d) an opening in the body unit
- (e) a medium of electro-mechanical energy absorption (air, foam, etc.)
- (f) a length along the first axis being the same as or greater than a diameter of the

body unit.

Additional common features, either in respective independent claims or in dependent claims, that may also be commonly searched include:

- (a) a rear cover unit
- (b) the rear cover unit being coaxial to the main axis
- (c) a clamping assembly/means for securing the rear cover
- (d) a shield unit
- (e) a defined length/diameter ratio
- (f) venting fins or heat transfer mechanism on the outer surface of the body unit.

In review of the above, Applicant asserts they have submitted evidence, in the form of the record and claim language of record itself, that asserts the inventions in the independent claims are variants of the core invention asserted and as such the claims in Groups I, II, V, and VII-VIII are not subject to restriction (other than logical separation from Groups III, IV, and VI).

Applicant request withdrawal of the restriction on its face and revision to assert a common group (including Groups I, II, V, and VII-VIII) and thereafter a comprehensive search and examination on the elected claims for the common group.

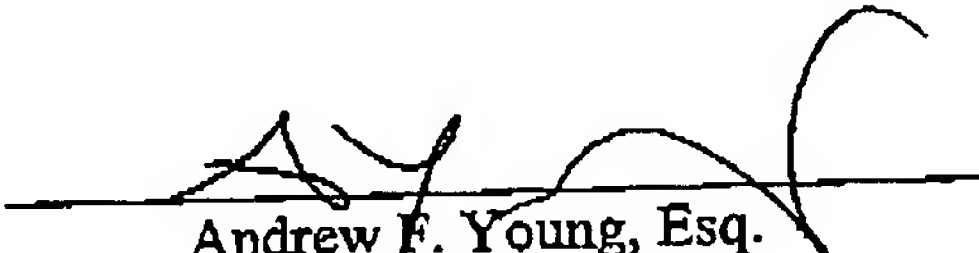
In view of the missing support, Applicant therefore asserts that while the independent claims are directed to differing claim aspects (with minor variants or including dependent claim details), this is common in the industry and that such an assertion alone is insufficient to sustain the instant restriction action, without more. The need for a broad search is not the basis for a restriction requirement.

Applicant respectfully requests review and reconsideration of the instant action, and thereafter prosecution on the merits of the entire application.

Applicant does believe that any fee is due with this communication. However, the Communication is hereby authorized to charge any addition fee(s) or credit any overpayments that may be necessary with this communication to Deposit Account No. 10-0100.

Respectfully Submitted

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Date



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